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Anne-Valerie Ruzette

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SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON, DC 20036

EXAMINER

MULLIS, JEFFREY C

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

02/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 1796

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14-15, 17, 18, 24-28 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) and Coran et al. (US 4,473,683).

See the Office action of 8-5-08 at page 4, lines 1 et seq.

Claims 16 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) as applied to claim 12 above and further in view of Pourallmady (EP 0947527)

See the Office action of 8-5-08 at page 6, lines 9 et seq.

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guerret et al. (WO 00/71501, using 6657043 as a translation) in view of Fischer et al. (US 6,239,226) as applied to claim 12 above and further in view of Billovitis et al (WO 98/52978).

See the Office action of 8-5-08 at page 7, lines 6 et seq.

Applicant's arguments filed 12-5-08 have been fully considered but they are not persuasive. With regard to the use of a brittle matrix such is taught by Coran at column 1, lines 26-27 and the previous Office action sets out reasons for use of the combination of (brittle) polystyrene matrix and Guerrets' block copolymers. See page 5, of the previous Office action at the last complete paragraph thereof. Applicants argue that there are no examples of production of block copolymers in the presence of nitroxide in the primary reference. Applicant argues that Fischer does not teach or suggest controlled radical polymerization with a nitroxide. However such an argument is piecemeal analysis of the above rejection. Fischer has not been relied upon for use of nitroxides or alkoxyamines in any context or any of the other reasons cited by applicants except for production of blends. Fischer discloses that their block copolymers are compatibilizers and for this reason alone those skilled in the art would assume compatibility with any matrix aside from the fact that Fischer and Guerrets' block copolymers both have polystyrene blocks which would be expected to be compatible with polystyrene. With regard to Coran applicants are reminded that Coran is used solely for claim 32 for the amount of brittle matrix which spans the range of 10-85%. The disclosure of Coran is optional in this case given broad range recited by the claims and given that only a small portion of the conceivable range of percentages (0-100%) of block copolymer in a block copolymer containing composition would have to be chosen to lie outside of the scope of the claims. Pourallmady and Billovits have not been used

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for any teachings regarding a brittle matrix, nor is this necessary to meet the limitations of the claims as set out above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis
M-F, 9-5 pm at telephone number 571 272 1075.

Jeffrey C. Mullis
Primary Examiner
Art Unit 1796

JCM

2-15-09

/Jeffrey C. Mullis/

Primary Examiner, Art Unit 1796

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